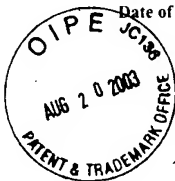


Date of Deposit: August 20, 2003

Attorney Docket No: 21402-230 (CURA-530)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Spytek, *et al.*

SERIAL NUMBER: 10/038,854

EXAMINER: Cheyne D. Ly

FILING DATE: December 31, 2001

ART UNIT: 1631

FOR: PROTEINS AND NUCLEIC ACIDS ENCODING SAME

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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RESPONSE TO RESTRICTION REQUIREMENT

In response to the Restriction Requirement mailed May 20, 2003, Applicants elect the invention of Group II, claims 5-13, drawn to a nucleic acid. Applicants further elect a nucleic acid sequence encoding SEQ ID NO: 38. Applicants make this election with traverse and without prejudice to pursuing non-elected subject matter in later applications.

The traverse is on the basis that the claims of Group II and Group III be prosecuted together. The claims of Group II are drawn to an isolated nucleic acid. The claims of Group III are drawn to a cell comprising a vector comprising the nucleic acid of Group II. Applicants assert that the search of prior art relevant to the patentability of the claims of Group II necessarily encompass the subject matter of Group III. Therefore, if the restriction is maintained, it is likely that redundant searches will ultimately be performed in the course of prosecuting the parent and a divisional applications. Thus, the resources of the Patent Office would be most effectively utilized by examining the claims of Groups II and III together.

APPLICANTS: Spytek *et al.*
SERIAL NUMBER: 10/038,854

This response is due on or before August 20, 2003 with a two-month extension of time. Applicants submit herewith a petition for a two-month extension of time along with the appropriate fee. The Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311 (Reference No. 21402-230).

Respectfully submitted,



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Date: August 20, 2003

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Date of Deposit: August 20, 2003

PATENT APPLICATION

Attorney Docket No. 21402-230 (CURA-530)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : Spytek, *et al.*
ASSIGNEE : CuraGen Corporation
SERIAL NUMBER : 10/038,854 EXAMINER : Cheyne D. Ly
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PRELIMINARY AMENDMENT

Prior to examination of the above-identified patent application, please amend the above-identified application as follows: